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SUBJECT: US-UAE JOINT COUNTERPROLIFERATION SEMINARS HIGHLIGHT  
IMPORTANCE OF EXPORT CONTROLS AND INTERNATIONAL COOPERATION

REF: ABU DHABI 701

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UNCLASSIFIED BUT SENSITIVE; PLEASE HANDLE ACCORDINGLY

#### Summary -----

¶1. As part of the Export Control and Related Border Security (EXBS) program, the US and the UAE held a two-day counter-proliferation workshop for prosecutors and judges in Dubai. The workshop was held under the sponsorship of the UAE Minister of Justice, His Excellency Hadif J. Al Dhahiri, and highlighted the UAE's new federal law on export and import controls, Federal 13, which was passed in August 2007. In addition, a third day of discussions was held at the Sharjah Police Academy for UAE law enforcement officials. In all, the three-days of discussions provided an opportunity for the US and UAE prosecutors, judges, and police to share experiences, best practices, and challenges in how to effectively implement and apply export controls. In addition, UAE representatives discussed ways in which the US and the UAE could work together on these matters, including concluding negotiations on a Mutual Legal Assistance Treaty (MLAT). End Summary.

#### Background -----

¶2. During the September 2007 legal and regulatory workshop, the legal advisor for the Dubai police discussed the need to conduct outreach to its prosecutors and judges on the new export control law. (Law 13 of 2007 re: Commodities Subject to Import and Export Control, reftel.) In February 2008, during the Counterproliferation Task Force (CTF), the UAE asked for this training and ISN A/AS McNerney said we would deliver. Through support of the Export Control and Related Border Security (EXBS) program, DOJ/OPDAT proposed a series of seminars and workshops to UAE with respect to implementing its the new law, which contains significant criminal penalty provisions. The purpose of the workshops was to advance the Export Control and Related Border Security's (EXBS) agenda by encouraging enforcement and familiarizing UAE prosecutors and judges with the challenges associated with enforcing export control laws and best practices for dealing with them.

¶3. On June 3-5, 2008, EXBS sponsored two export control seminars with interagency support and participation from DOS, FBI, ICE, DOC/BIS, and OPDAT: a 2-day seminar for prosecutors and judges at the Dubai Institute of Advanced Legal and Judicial Studies on June 3-4, and a 1-day seminar for UAE investigators at the Sharjah Police Academy on June 5. Both seminars focused on actual case studies drawn from US experiences and were presented by US law enforcement agents and prosecutors.

¶4. The seminars provided an opportunity for US and UAE prosecutors, judges, and law enforcement officials to share experiences, best

practices, and challenges in how most effectively to implement and apply export controls, and to ensure that WMD, their delivery systems, related technologies, and advanced conventional weapons are not put into the hands of proliferators or those who wish to divert legitimate trade for improper purposes. UAE officials participated actively asking questions and speaking candidly about proliferation risks associated with UAE's ports. They also provided details regarding the first case being prosecuted under UAE's law, involving a transshipment of zirconium metal (septel). Over 35 judges and prosecutors attended the first two days, and over 40 law enforcement officials attended the third day.

15. UAE officials also expressed willingness to establish legal mechanisms for cooperation with the USG in combating proliferation. However, the same officials noted that the potential for future cooperation through official legal channels on WMD remains obstructed on account of the absence of a formalized Mutual Legal Assistance Treaty (MLAT), and the inconclusive negotiations that were last held in Washington in February 2005. Two of the UAE delegates to those negotiations attended the seminars.

#### Opening Sessions Confirm Risks to UAE Ports

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16. Charge opened the workshop, stressing the importance of effective export controls in halting the proliferation of goods and technology that could be used to develop weapons of mass destruction (WMD). He also congratulated the UAE for passing a comprehensive export control law and stressed the need for US-UAE cooperation to increase prosecutions of export control violations. Counselor Bakri Abdullah Hasan of the Office of Public Prosecution in Dubai provided a detailed overview of UAE's new federal law on export and import controls. Counselor Hasan also acknowledged that Dubai ports were used as transshipment points as part of the AQ Khan proliferation network. He stated that this type of activity makes the UAE aware of the dangers and stressed the need to implement comprehensive export control laws and regulations.

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#### U.S. Presentations Emphasize Complexity of Export Control Cases and Importance of Bilateral Cooperation

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17. The U.S. delegation included law enforcement officials and prosecutors with experience investigating and prosecuting export control violations, including: (1) Thomas Madigan, Acting Director Office of Export Enforcement, U.S. Department of Commerce, Bureau of Industry and Security (DOC BIS); 2) Edward O'Callaghan, Chief of the Terrorism and National Security Unit in the U.S. Attorney's Office for the Southern District of New York; (3) Ryan Fayhee, Trial Attorney, National Security Division, U.S. Department of Justice; (4) James Warwick, U.S. Attorney's Office for the District of Maryland; (5) John Burgess, Investigator, Immigration and Customs Enforcement; (6) Jay Manning and James Ferris, Federal Bureau of Investigation.

18. The workshop began with a brief discussion of U.S. law and the roles and responsibilities of each U.S. government agency. AUSA O'Callaghan overviewed the U.S. task force concept, and how "leads" are collected from a variety of federal and local sources as part of a cooperative effort to identify and prosecute export control violations. Following this discussion, in-depth case studies were presented on four major U.S. export control cases:

-- Asher Karni case: This case focused on procurement of sensitive U.S. commodities for re-export to Pakistan (diverted through South Africa). This case illustrated the importance of private sector and bilateral governmental cooperation. Karni was arrested and pleaded guilty, while Khan remains at large.

-- Cirrus Electronics case: This case involved front companies in the U.S. and Singapore that were being used to procure U.S. origin controlled electronic parts to India without a license. This case illustrated interagency cooperation between FBI and Commerce investigators and highlighted the fundamental need for bilateral

cooperation agreements between the US and other important importing/exporting countries.

-- U.S. v. Yousef Bousvash: This case involved an Iranian national who had attempted to obtain 15 shipments of U.S. munitions list items without a license, and to transship the items to Iran through a front company located in Dubai. This case illustrated many of the sophisticated measures taken by criminals to divert goods to countries of concern, including setting up front companies.

-- U.S. v. Haji Subandi, et al: This case involved years of undercover operations before all brokers were arrested and charged with violating U.S. export control laws.

¶9. The interactive case study sessions were designed to cover all critical parts of export control investigations, from case initiation through trial, plea, and sentencing. The case studies highlighted the international nature of export control cases, the need for advanced enforcement capabilities and undercover investigative skills, and the importance of establishing and maintaining strong bilateral cooperation relationships with key importing/exporting countries. Each of the focus cases was initiated through anonymous or confidential sources and intelligence. The studies demonstrated that export control cases are very complex, can take years to be investigated and prosecuted, and often have mixed outcomes as reflected by the number of individuals charged with export control violations who remain at large in other countries.

#### UAE Comments and Questions Regarding Case Studies

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¶10. By all accounts, the EXBS seminars represent the first organized effort by the UAEG to educate prosecutors, judges and investigators regarding UAE Federal Law 17 of 2007. Nonetheless, UAE officials' comments throughout the event indicated a strong understanding of the importance of the law. Many of the participants expressed deep appreciation for workshops and indicated that future programs would be welcome. Some of the comments and questions included: (1) Role of undercover agents and concerns regarding potential entrapment of defendants when using undercover agents; (2) Role of prosecutors and judges in the U.S. judicial system; (3) Difficulties in implementing new legislation, especially one with many different agencies involved; (4) Time frame it takes in order to put these cases together; (5) Importance of international cooperation and intelligence sharing; (6) Concerns regarding pressure from companies to issue licenses as well as corruption within certain companies -- how to ensure companies comply with the law; (7) How the U.S. regulates companies; (8) Concerns regarding the extradition of foreign nationals; and (9) Jurisdiction over U.S. controlled items in other countries.

¶11. UAE officials expressed concerns regarding regulating companies and the difficulty in doing so in this environment, especially when the UAE is trying to promote free enterprise. Many raised concerns

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¶12. (SBU) Through the course of the workshop, concerns were raised regarding the lack of a Mutual Legal Assistance Treaty (MLAT). Although a 9-member UAE delegation was sent to WashDC in February 2005, no treaty was negotiated or signed, and there was a general sense of frustration expressed by some participants. Two members of the UAE delegation to the 2005 talks were present in the workshop: Dr. Mohamed Al Kamali, Director of the UAE Institute of Training and Judicial Studies; and Judge Younis Yousif Al Redha, Chief Judge of the Sharjah Court of Appeals. Judge Al Redha and Counselor Bakri Abdullah Hasan publicly expressed regret that USG does not have an MLAT and an Extradition Treaty with UAE, which they described as necessary before UAE law enforcement and prosecutors can legally provide mutual legal assistance under UAE laws. Participants expressed that these mutual legal assistance agreements would be critical to future cooperation among law enforcement channels on export control cases.

#### Law Enforcement Officials Stress Cooperation and Intelligence Sharing

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¶13. The second seminar was held on June 5, 2008 for law enforcement

officials at the Sharjah Police Academy. The seminar was well received by the approximately 40 police and law enforcement officials who attended. U.S. attorneys explained the importance of working closely throughout the investigative process with their law enforcement colleagues to ensure a successful outcome. U.S. enforcement officials stressed the need for undercover operations, intelligence sharing, undercover informants, industry cooperation, physical surveillance, computer surveillance, and search warrants. Law enforcement officials seemed very interested in the new law and open to law enforcement cooperation in this area. Inquiries were made as to what the U.S. shares with other countries as far as intelligence and how the U.S. goes about undertaking very long investigations, many of which take years to prosecute. Officials also inquired about working with private ports and how to cooperaten with the private sector. U.S. officials stressed the need to send a message which, by prosecuting individuals and companies, would deter future violations.

¶14. Major Mohammed Al-Kitbi, MoI Coordinator for Anti-Trafficking in Weapons of Mass Destruction, gave a broad overview of the UAE export control law, highlighting the need for the UAE to implement the law to ensure its own security and to comply with obligations under international agreements. He pointed out that the UAE is currently amending parts of the law to make it easier to implement. One important change will be to increase the items on the control list; however, it was not clear if such amendments would increase the number of controlled commodities to include all the items on the four multilateral control regime lists.

#### Positive Collaboration and Next Steps

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¶15. (SBU) Overall the export control seminars achieved their aim, and the UAE expressed appreciation for the candid nature of the discussions and expressed interest in follow-up workshops and cooperation, including sending UAE officials to the U.S. to learn about DOJ's role in prosecuting strategic trade cases. The lack of formal cooperation mechanisms, such as a Mutual Legal Assistance Treaty, was highlighted as an impediment to more formal cooperation and coordination in the law enforcement and judicial arenas.

Quinn